



**REGULAR MEETING
MINUTES OF ACTIONS
Wednesday, July 24, 2013
Art Pick Council Chambers
3900 Main Street, Riverside, CA**

4:00 PM – CASE REVIEW

Case Review Roll Call

Rotker	VACANT	Ybarra	Taylor	Ortiz	Jackson	Roberts	Maciel	Adams
✓	■	✓	✓	✓	✓	✓	✓	✓

✓ = Present **B** = Absent / Business **S** = Absent / Sick **V** = Absent / Vacation **O** = Absent / Other
UE = Absent / Unexcused **L** = Late **LE** = Left Early **■** = Vacant

STAFF: Frank Hauptmann, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

Public Comment

This is an opportunity for members of the public to address the Commission on closed session items.

There were no public comments regarding closed session items.

Closed Session – Case Review

Pursuant to Government Code Section 54957, the Commission adjourned to Closed Session at 4:04 PM to discuss issues pertaining to PUBLIC EMPLOYEE PERSONNEL MATTERS.

	CPRC CASE NO.	RPD CASE NO.
1)	11-038	PA-11-11048
2)	12-017	PA-12-06022

The Commission recessed at 5:30 PM to reconvene in the Regular Meeting.

REGULAR MEETING – 5:30 PM

PLEDGE OF ALLEGIANCE

Regular Meeting Roll Call

Rotker	Hawkins	Ybarra	Taylor	Ortiz	Jackson	Roberts	Maciel	Adams
✓	✓	✓	✓	✓	✓	✓	✓	✓

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STAFF: Frank Hauptmann, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

Oath of Office

City Clerk will administer the Oath of Office to newly appointed CPRC Commission Member Bobby Hawkins.

Public Comments

Bill Howe complimented the Commission on the annual report. He said the bios seemed a little short but, overall, it is an outstanding report.

Ledezma Officer-Involved Death (OID) Case Evaluation

Continue discussion and action, if any, on the Ledezma OID case evaluation. The Commission has begun Stage I (Commission Member Review) and has moved on to Stage II (Fact Finding, Request for Training & Investigation). The Commission may return to discussion of completed Stages, if needed.

Chairwoman Roberts moved ahead to this agenda item to allow Lt. Gonzalez to provide the Commission with additional training.

Lt. Gonzalez:

- There are 43 Learning Domains (LD) used in basic academy training.
- Learning Domain 20 covers Use of Force and concentrates on the resistance of suspects:
 - Passive resister: the lowest level of resistance encountered. The person refuses to place their hands behind back to be handcuffed.
 - Active resister: define this as anytime the person uses any muscle in their body once the officer makes contact with them or they run away.
 - Actively aggressive / assaultive resister: takes a fighting stance after being instructed to put their hands behind their back.
- Training involves a combination of classroom, defensive tactics (LD 33), firearms, and extensive scenario-based training in which officers are given various examples of scenarios and then learn ways of reacting to the situation.
- During academy training, officers are instructed to try not to overreact, to wait until there's a reason, an overt act, before using deadly force.
- Two case laws are taught in the Learning Domain
 - Tennessee v Garner defines when officers can shoot at a fleeing felon
- Action v. reaction: trying to prevent the first "bang".
 - Can suspects just be winged? Officers are trained to have a target of center mass.
- The 21-foot rule: it is the officer's perception on the situation, whether it's 30' or 15' and whether or not to use deadly force.
- While officers are trained in various use-of-force scenarios along with use of the MILO scenario simulator, it is difficult to prepare them for an actual shooting situation.

Lt. Gonzalez asked if there were any questions.

Commissioner Rotker:

- Is there a difference in the way an officer will respond to a blunt instrument, a knife, or a gun?
 - In POST tests on deadly force, different answers can be given that are still correct. The same scenario can be handled by different methods but, again, the officer needs to see an overt act. If the suspect is running at the officer, the officer will need to take appropriate action.
- If the suspect is armed with a blunt object, the distance becomes more important than if he's armed with a gun. In the Ledezma case, there was a distance between the officers and Mr. Ledezma and becomes a matter of concern for the Commission.
 - I don't know the facts of the case. I didn't read the officers' statements. What I feel is a threatening distance is different than what others may feel. It also depends on who the suspect is. I may let a 90-year-old lady hit me before I decide to shoot where that wouldn't be the case if it were a 21-year-old man.

Commissioner Ortiz:

- Distance may not be as important here because the suspect was throwing objects, so the 21' rule may not apply. How is the assessment made that the suspect is intent on causing injury to the officers?
 - If I have a bat and I tell you to leave my property and then lift the bat, the intent is there. If I throw the bat away, it changes. If I start beating my brother, the officer may use deadly force. It is going to depend on the individual officer. An officer's reaction is dependent on the suspect. There are no absolutes in this area.
- What is the training that officers receive regarding great bodily harm to fellow officers?
 - We have to remember that we are bringing deadly weapons to a call. If a fellow officer is down, that officer's weapon can be used against him. We always have to remember that we are bringing the deadly weapon to an encounter.

Commissioner Taylor:

- Other less lethal weapons may have been available to the officers in this case, but it went from a Taser to guns. Are there calls where field supervisors arbitrarily respond without being dispatched?
 - Yes; "man with a gun" calls. Their response is dependent on the type of call, but there is no policy that says a sergeant must roll on this type of call.
- Would a domestic violence call fit in that?
 - Probably not.
- When a call is dispatched, do they check on the prior history of that location?
 - Yes. They run the address and get a premise history.
- Might that prompt the field supervisor to go to that location?
 - Yes. Send two units and violence towards the officers. It's usually two units and a supervisor.
- Was there other less lethal that may have been available?
 - I don't know the circumstances of this call. If a Taser was used and the person still holding a blunt object, options are limited. We're moving up on force options when a Taser is used. If they are using force, we don't use equal force to address theirs, but a higher level of force.
- After throwing one pipe, the suspect threw a second pipe. After the second pipe was thrown, he had nothing else in his possession.
 - Lt. Bruce Loftus:
When training is done, we can't get into the specifics of a certain case. We can answer questions in general, but can't answer certain questions. Training is more designed to tell you what a reasonable officer with reasonable training would do. You need to determine what your findings are.
- Can you talk about the deployment of canines?
 - A felony would have to have occurred. Canines have their own Use of Force policy. We can't deploy a dog on someone just because that person is acting crazy. We can if he's stabbed someone. This goes to Graham v. Conner: an officer can't be judged in hind-sight.

Chairwoman Roberts:

- Can you discuss procedures regarding cover when there are multiple officers?
 - One officer contacts the suspect, the other officer provides cover. They always need to be in eyesight of each other and always have lethal cover for a less-lethal operator.
- It is the same if it's a three officer situation?
 - Yes.

Commissioner Rotker:

- Using a hypothetical scenario involving three officers and one suspect, is there a way officers can be trained for a situation of this nature?
 - That's hard to answer. If an officer shoots, he needs to be able to articulate why he felt the need to shoot.
 - Lt. Loftus: "I rely on my cover officer as my lifeline," after creating a visual example of two officers (himself and Lt. Gonzalez) and one suspect (Commissioner Hawkins) to show the contact / cover scenario.
 - Expand on this example. There are two officers, but only one shoots. Why? Officers have to make split-second decisions. As long as their actions are reasonable under the situation. Reviews will look at what the officer saw, what he felt, and will look at the overall scenario.
- There is nothing that says they have to stand their ground if there's room to maneuver and avoid possible injury.
 - That comes up regarding moving vehicles.

Commissioner Adams:

- Once one a Taser has been deployed, can another one be deployed?
 - Yes.
- We've heard that officers are given the option of carrying a Taser. If they don't carry a Taser, wouldn't they need some other form of less lethal?
 - Yes. They can carry pepper spray, batons, or other types of guns. They aren't forced to carry something they're not comfortable with.
- If they had that available in Commissioner Rotker's scenario, they could've used that.
 - Yes.

Vice-Chair Jackson:

- You said this was mentioned on the shooting review board.
 - Lt. Loftus: What other options these officers had is looked at. When reviews are done, we ask if the shooting was within policy. If it is, the officers' actions are reviewed to see if something different could've been done that would avoid use of deadly force and that will be addressed.
 - Every use of force is critiqued. Officers will be sent to training to help them become comfortable with the various forms of less lethal. Constructive criticism is well-received, but it must be given diplomatically. We let them build in the areas they're confident in, but also help them in other areas.

Commissioner Ortiz:

- I'd like more feedback on the reasonable person / reasonable officer. I went to the Street Crimes seminar and saw examples of situations where officers became physically involved and it went wrong.
 - I'll use the Taser as an example. Say I use my Taser and it doesn't work. My fear goes up. These questions come up when situations are different than in the training scenarios. There is a mental aspect when the suspect isn't doing what a normal person would do. That raises the officer's fear level. The force used is also dependent on the officer's age. There are many different aspects that have to be evaluated.

Mr. Hauptmann:

- There were three officers at the incident. One deploys a Taser, which doesn't work. Could another officer have used a Taser?
 - Yes.

- In this case, a domestic violence call, if officers knew things would unfold in a manner similar to what it did, would they know that officers are trained to make independent decisions quickly?
 - Yes. Be prepared. Have a plan. Each contact should be thought of as a "what if..." Officers try to be prepared, but incidents can go sideways.

Commissioner Rotker:

- Does distance and speed of closure make a difference in review consideration?
 - Yes. The entire scenario would have to be evaluated. The reality is that if we're going to arrest someone, there's nothing that says we can't back up. We're not going to create a situation where the suspect can be a danger to other people.

As there were no additional questions for Lt. Gonzalez, Chairwoman Roberts thanked him, noting that he had given commissioners a lot to think about. Lt. Gonzalez said he would be happy to return any time there were questions.

Chairwoman Roberts then called for a 10-minute recess. The Commission reconvened at 7:14 PM.

Approval of Minutes

Minutes for Approval	Motion	Second	Approve	Oppose	Abstain
A) June Regular Meeting	Rotker	Adams	Unanimous	0	0

Outreach

A) July Outreach

Commissioner Adams:

- June 29 – Ryan Bonaminio Park Grand Opening

Commissioner Ybarra:

- June 29 – Ryan Bonaminio Park Grand Opening

Commissioner Maciel:

- June 30 – Heritage House Ice Cream Social

Commissioner Taylor:

- June 29 – Ryan Bonaminio Park Grand Opening

Commissioner Rotker:

- July 6 – RPD Ride-Along, with Q & A during roll call

Commissioner Ortiz:

- July 8 - 10 – Street Crimes Seminar
- July 10 – Chambers of Commerce

B) Scheduled Outreach Events

- 1) Golden Badge Awards – September 7 at 5:30 PM, Riverside Municipal Auditorium
- 2) Riverside Neighborhood Conference – October 19, Riverside City College

Chairwoman Roberts asked if anyone had signed up for the Riverside Neighborhood Conference as she hadn't seen anything on it. Ms. Sherron said that while registration information had not yet been received, it had been agendaized as a "heads' up" to let commissioners know when it was scheduled to take place.

Vice-Chair Jackson added that the conference had been moved from June to October to see if it would draw larger and different crowds.

C) Future Outreach Opportunities

- 1) Input from Outreach Coordinator on upcoming outreach events
- 2) Input from Commission Members on potential outreach events

Commissioner Adams:

- October 12 – Hometown Heroes Honor Run, Arlington Heights Sports Park
 - The Commission discussed whether to have a booth or participate as a team
- August community events list sent to Ms. Sherron.

A community member sent information to Ms. Sherron soliciting CPRC as a sponsor at MLK High School. She was not sure that it would be a very good outreach opportunity for the Commission, but asked for other opinions.

Commissioner Maciel thought colleges would provide a better opportunity than high schools.

Commissioner Taylor felt it would be better for the high school than the Commission.

Commissioner Ortiz said he wasn't opposed to attending high school games, but felt that one school shouldn't be favored.

Commissioner Adams said she would contact the community member.

Chairwoman Roberts said it would be a good opportunity to attend and meet people and that the Commission needs to reach kids and their parents.

Commissioner Adams said that when RPD was doing lectures, high schools were a good place, but don't think this would be the best venue for CPRC outreach. She also noted that she was able to get a list of neighborhood groups and that she would send a list of the groups in each ward to the respective commissioners.

Vice-Chair Jackson said it is important for commissioners to know what is happening in their ward, but not to be focused on their own ward alone.

Commissioner Rotker said he would report on Council Member MacArthur's Annual Constituent Appreciation BBQ.

OLD BUSINESS

Ledezma Officer-Involved Death (OID) Case Evaluation

Continue discussion and action, if any, on the Ledezma OID case evaluation. The Commission has begun Stage I (Commission Member Review) and has moved on to Stage II (Fact Finding, Request for Training & Investigation). The Commission may return to discussion of completed Stages, if needed.

Chairwoman Roberts commented that Mr. Hauptmann had completed the fact sheet and she then continued discussion of this item.

Commissioner Rotker asked if it had been determined that Mr. Ledezma had alcohol in his system. Mr. Hauptmann said that tox reports are not available in the public report. Commissioner Rotker expressed concern that the Commission was not able to know if Mr. Ledezma was under the influence.

Commissioner Ortiz noted that officers wouldn't know what was in his system, but just reacted to him.

Commissioner Rotker said it would be helpful to know if he was under the influence and that the tox report should be included in the casebook.

Mr. Hauptmann said he would check to see if that portion could be obtained in the unredacted version of the casebook.

Chairwoman Roberts noted that the Commission was told up front of the level of intoxication in the Pablo case and that not being told in this case wouldn't be consistent. She then asked of the coroner's report was in the criminal casebook. Mr. Hauptmann said that it is redacted.

Commissioner Ortiz said that the issue in Pablo was who was at fault for the accident. In this case, it's the impression the officers' have and that because of Mr. Ledezma's actions, the officers might presume he was under the influence.

Chairwoman Roberts asked if it was a hard and fast rule that some information is allowable and some is not; what is the rule? Sometimes the information is given and sometimes it isn't.

Mr. Hauptmann said that the information about Ms. Pablo's intoxication came from the hospital and not the coroner's report. Officers don't necessarily have the time to determine if a person is under the influence. He said he would contact PD to learn why this was redacted and will try to have it made available.

Commissioner Rotker said that if the case file reports that Mr. Ledezma had been drinking, the question of the blood alcohol content and whether officers were aware of it is relevant. He also asked if the coroner did a tox screen. Mr. Hauptmann said that they do.

Commissioner Taylor said he had reviewed the case file and fact sheet. He asked if they could have the information that was dispatched to officers and information on the premise history. Mr. Hauptmann asked him if he had looked at the CAD printout. Commissioner Taylor said he had, but that it doesn't show any premise history. Mr. Hauptmann said he would try to get copies of the dispatch audio. Commissioner Taylor said he was trying to determine whether or not the call met the criteria for the dispatch of a field supervisor.

Commissioner Rotker asked if the casebook noted the ages of the officers and their length of service. Mr. Hauptmann said that the officers' ages are not listed.

Chairwoman Roberts asked about their length of service. Mr. Hauptmann said he recalled seeing something in one of the reports regarding the officers' length of service. Commissioner Adams said that the officers' interviews note their length of service.

Commissioner Rotker asked if it had been determined whether or not the other two officers had Tasers. Mr. Hauptmann said he didn't believe it was mentioned and that he would ask for that information.

Vice-Chair Jackson noted that officer log their duty weapons and asked if Tasers would have also been logged. Mr. Hauptmann said no, but there may be photos of officers that might help determine who had a Taser. Reports won't list the other weapons the officers may have carried and that the only way to know would be to look at the photos.

Chairwoman Roberts said discussion was still in Stages 2 and 3. She also noted that she had talked to Lt. Loftus and that he would talk to the Commission about perishable skills training. She said she would also like to see the premise history the officers received when they were dispatched. She noted that fact sheet is to assist, but not substitute the review of casebook and that the length of service can be found in casebook.

Mr. Hauptmann said to look at officers' interview transcripts for their respective lengths of service.

Chairwoman Roberts said that discussion of this item would begin with this at the next meeting.

Dunbar Officer-Involved Death (OID) Case Evaluation

Continue discussion and action, if any, on the Dunbar OID case evaluation. The Commission may be instructed to begin Stage I (Commission Member Review) and may move on to discussion of Stage II (Fact Finding, Request for Training & Investigation). The Commission may return to discussion of completed Stages, if needed.

Chairwoman Roberts asked if there were any questions regarding this case.

Commissioner Rotker reiterated his question from the previous meeting as to Mr. Dunbar's official cause of death and as to how he got the gun. He then asked if answers had been obtained. Mr. Hauptmann said that the information regarding the gun should be in the report, that it should be documented as to where the gun came from. He said that if it is not in the report, we won't know.

Commissioner Rotker asked again about the cause of death. Mr. Hauptmann said that when an officer was attended the autopsy, that was reported, but the coroner's report itself was redacted.

Commissioner Rotker said that there is no coroner's report or statement regarding the cause of death, which wound was made first, and so on. Mr. Hauptmann said that if that information was redacted, he wouldn't be able to get it.

Commissioner Rotker said that a simple statement regarding the cause of death isn't something that should be redacted. Mr. Hauptmann asked what the attending officer said. Commissioner Rotker said he didn't mention the cause of death.

Commissioner Adams said she was concerned about the person left in the patrol car. Mr. Hauptmann said that the back doors of patrol cars won't open from inside once they are closed.

Chairwoman Roberts asked if the fact sheet would be ready by the next meeting. Mr. Hauptmann said it would and said he hoped the current method was acceptable.

NEW BUSINESS

Annual Review of the City's Code of Ethics

Discussion and action, if any, on recommendations or inclusion of new values or procedures in the City's Code of Ethics for elected officials and members of appointed boards, commissions, and committees. Per Resolution No. 22461, the Governmental Affairs Committee will hold the required annual review of the Code of Ethics with the Mayor, City Manager, City Attorney, and the Chairs of all Boards and Commissions. This meeting will be held on September 4, 2013, at 4 PM in the Mayor's Ceremonial Room. The City Council's public hearing on the resultant report is scheduled for September 24, 2013, at 7 PM in the Art Pick Council Chamber.

Chairwoman Roberts said that each year the Boards and Commissions Chairs are invited to attend the review of the City's Code of Ethics and they are asked for any recommendations for changes and / or additions. She asked commissioners to review the Code of Ethics and let her know if they had any suggestions.

Commissioner Adams said she had read it and thought it was fine as is.

Chairwoman Roberts said she would be attending the meeting and provide feedback.

September Regular Meeting

Discussion and action, if any, on holding the September Regular Meeting on September 11 rather than September 25 due to the conflict with the NACOLE Conference that is being held September 22 - 26.

Motion for Approval	Motion	Second	Approve	Oppose	Abstain
That the September Regular Meeting would be held on the 11 th rather than the 25 th due to the conflict with the NACOLE Conference	Ortiz	Jackson	Unanimous	0	0

Chairwoman Roberts also asked if the commissioners felt the need for a second meeting in August.

Commissioner Rotker said he didn't see the need as he felt good progress was being made.

Chairwoman Roberts asked if any new casebooks would be coming to the Commission soon. Mr. Hauptmann said no.

Based on this discussion, Chairwoman Roberts said there would be no second meeting in August.

Staff Report

Mr. Hauptmann said he had nothing to report.

Commission Member Comments

Pursuant to Government Code Section 54954.2, Commission members may use this time to make brief announcements or a brief report on their own activities.

Commissioner Hawkins thanked everyone for the warm welcome.

Commissioner Maciel said she appreciated the training received today.

Commissioner Ortiz welcomed Commissioner Hawkins.

Chairwoman Roberts extended a welcome to all the new commissioners.

Items for Future Commission Consideration

There were no items for future Commission consideration.

Adjournment

The Commission adjourned at 7:59 PM.

Respectfully submitted,


PHOEBE SHERRON
Sr. Office Specialist